

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARMAR BROWN,

Defendant.

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CASE NO. 8:06CR116

**MEMORANDUM
AND ORDER**

This matter is before the Court on: the Defendant's motion to alter or amend the memorandum and order and judgment denying his § 2255 motion (Filing No. 842). The motion was brought pursuant to Federal Rule of Civil Procedure 59(e).

In the Court's previously issued Memorandum and Order and Judgment (Filing Nos. 837, 838), the Court denied the Defendant's motions to amend his § 2255 motion (Filing No. 800) and for an evidentiary hearing (Filing No. 834). The Defendant now seeks to reargue portions of his § 2255 motion.

The Court has rendered its decision regarding the Defendant's § 2255 motion. Rule 9 of the Rules Governing Section 2255 Proceedings provides: "Before presenting a second or successive motion, the moving party must obtain an order from the appropriate court of appeals authorizing the district court to consider the motion, as required by 28 U.S.C. § 2255, para. 8." The Eighth Circuit Court of Appeals has considered multiple motions for new trial in the § 2255 context as successive motions. *United States v. Lambros*, 404 F.3d 1034, 1037 (8th Cir. 2005). Therefore, the Defendant's motion is considered a successive § 2255 motion and denied for lack of an order from the Eighth Circuit allowing this Court to consider the motion.

IT IS ORDERED:

1. The Defendant's motion to alter or amend his § 2255 motion pursuant to Rule 59(e) (Filing No. 842) is denied; and
2. The Clerk is directed to mail a copy of this Memorandum and Order to the Defendant at his last known address.

DATED this 7th day of December, 2011.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge